

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

| | | |
|------------------------|---|--------------------|
| In Re: |) | Case No.: 10-10684 |
| |) | |
| POWER DEVELOPMENT, LLC |) | Chapter: 11 |
| |) | |
| <u>Debtor(s).</u> |) | |

AMENDED MOTION TO DISMISS

The Office of the Bankruptcy Administrator for the Western District of North Carolina amends its Motion to Dismiss the Debtor's case filed September 2, 2010 to add the following:

1. The North Carolina Secretary of State administratively dissolved the Debtor on September 2, 2010 pursuant to the procedure set forth in N.C.G.S. § 57C-6-03 for failure to file an annual report. A copy of the Certificate of Dissolution is attached as Exhibit 1. The North Carolina Secretary of State notified the Debtor of the grounds for administrative dissolution by letter dated March 10, 2010. A copy of said letter is attached as Exhibit 2.
2. N.C.G.S. § 55-14-05 addresses the effect of corporate dissolution and subparagraph (a) provides that "A dissolved corporation continues its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including . . . [d]oing every other act necessary to wind up and liquidate its business and affairs."
3. *Saslow v. Times Oil Corporation (In Re 4 Seasons Express Mart, Inc.)* 2007 Bankr. LEXIS 439 (MDNC 2007) holds that a Chapter 7 case can be used to wind up and liquidate a dissolved corporation.
4. The Debtor cannot continue as a Debtor-in-Possession under Chapter 11, as it is administratively dissolved and cannot continue to operate, do any business or reorganize but may only wind up and liquidate its business and affairs.

Wherefore, the undersigned moves to dismiss because the Debtor has been administratively dissolved by the North Carolina Secretary of State in addition to the reasons set out in the Motion to Dismiss filed September 2, 2010, and for such other and further relief as the Court deems just and proper.

This the 20th day of September, 2010.

/s/Alexandria P. Kenny

Alexandria P. Kenny

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United States Bankruptcy Administrator

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CERTIFICATE OF SERVICE

The undersigned certifies that the pleading(s) or paper(s) to which this Certificate is affixed was served upon the party(s) to this action listed below by depositing a copy of the same, enclosed in a first-class postpaid, properly addressed wrapper, in a Post Office or official depository under the exclusive care and custody of the United States Postal Service and/or by means of the Electronic Filing System of the Bankruptcy Court on September 20, 2010.

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- Served electronically

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